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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

ANDREW LAMBERT SILICANI,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 17-CV-197-F

**UNITED STATES' SECOND MOTION FOR AN EXTENSION OF TIME IN WHICH
TO RESPOND TO THE PETITIONER'S MOTION UNDER 28 U.S.C. § 2255**

On November 24, 2017, the Petitioner/Defendant ("Silicani") filed a motion under 28 U.S.C. § 2255 seeking to vacate, set aside, or correct his sentence. (ECF No. 1). Silicani supplemented his motion on November 27, 2017. (ECF No. 2). That same day, this court entered its order directing a response from the government within twenty-one days. The government's response was due on December 18, 2017. Upon motion of the United States, this court granted an extension of time for the United States to respond until February 16, 2018. (ECF No. 4, 5). For the reasons set forth below, the United States requests a sixty-day extension until April 17, 2018, within which to respond to Silicani's motion. In support of this request, the United States informs the court as follows:

1. The undersigned is responsible for preparing the government's response in this matter.

2. This is the United States' second request for an extension of time.

3. The Defendant is presently in federal custody serving his sentence.

4. The United States sought the original extension based on the undersigned's involvement in a jury trial between November 27 and December 1, 2017 (with associated pretrial preparations) and the undersigned's training in Columbia, South Carolina, during the first two weeks of December, 2017.

5. In the meantime, among other things, the undersigned has been working on two appellate briefs. First, the undersigned prepared a district-court appellate brief from a bench trial in 16-CR-159-S. The brief was originally due on December 21, 2017, but the court extended the filing deadline until January 19, 2018. The undersigned filed the United States' brief that day. Second, the undersigned has been working on a Tenth Circuit brief in 17-CR-24-S, No. 17-8066. The defendant in that case is currently serving a twenty-four month sentence and appealing the denial of his motion to suppress. If successful, that defendant's appeal would permit him to withdraw his guilty pleas and result in important evidence being suppressed. The United States' brief is currently due on February 16, 2018 (the same day as its response in the present case).

6. In his § 2255 motion, Silicani has raised what could be a complex and dispositive legal issue implicating the appropriate unit of prosecution under 18 U.S.C. § 1958. Among other things, Silicani is relying on recent authority from the First Circuit. The requested extension would better enable the undersigned to research and brief this legal issue for the court.

8. Although this is the United States' second request for an extension of time, the requested extension should in no way prejudice Silicani. Even if this court were to rule in Silicani's

favor on the unit-of-prosecution issue, Silicani's underlying guilty pleas would almost certainly survive; his counts of conviction would simply merge to some extent, and he would be left with a sentence of at least ten years, with several years remaining to serve. Thus, the requested continuance does not appear to prejudice Silicani, at least with respect to the unit of prosecution issue.

9. By contrast, the defendant in No. 17-8066, who is currently serving a twenty-four month sentence, would potentially suffer prejudice if the United States sought an extension in his case. Unlike Silicani, who will be serving a sentence win or lose, the defendant in No. 17-8066 would be able to withdraw his guilty pleas if he prevails. A favorable decision on appeal might even result in dismissal of that defendant's case entirely.

10. Based upon the aforementioned reasons, the United States respectfully requests a sixty-day extension of time from February 16, 2018 to April 17, 2018, within which to file its response to the Defendant's pending § 2255 motion.

DATED this 6th day of February, 2018.

Respectfully submitted,

MARK A. KLAASSEN
United States Attorney

By: /s/ Thomas Szott
THOMAS SZOTT
Assistant United States Attorney

CERTIFICATE OF SERVICE

This is to certify that on the 6th day of February, 2018 I served a true and correct copy of the foregoing United States' Second Motion for an Extension of Time in Which to Respond to the Petitioner's Motion Under 28 U.S.C. § 2255 upon the following by depositing the same, postage prepaid, in the United States mail, addressed to:

Andrew Lambert Silicani
14126-091 Inmate Mail/Parcels
Florence High
U.S. Penitentiary
P.O. Box 7000
Florence, Co 81226

/s/Kylie Severns
For the United States Attorney's Office